

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
(JACKSON)

ADAM SIMMONS
(MOVANT)

V.

UNITED STATES
OF AMERICA
(RESPONDENT)

CASE # 1:21-CR-10087-STA-6
28 U.S.C. § 2255

MOTION TO VACATE,
SET ASIDE OR
CORRECT A
SENTENCE

RECEIVED

NOV 17 2023

Wendy R Oliver, Clerk
U.S. District Court
W.D. OF TN, Jackson

Comes Now Adam Simmons
PROSE litigant to the HON.
COURT with his 28 U.S.C. §
2255 to seek relief and for
the HON. COURT to have a
better understanding of my
position based on the following:

- 1.) Ground one: Gov. acted in
bad faith by failure to make
any Recommendation under 5K1,
or rule 35 for my cooperation.

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A.) I Adam Simmons say that I signed a proffer Agreement and was interviewed twice by the Gov. and it's agents with my Attorney present furthermore, the Gov. and my Attorney promised me a recommendation under rule 35 at sentencing and to date has failed to reward me for Efforts. Therefore the Gov. has Acted In Bad Faith.

2.) Ground Two: Ineffectiveness on my Attorney Juni Ganguli.

A.) I Adam Simmons say that my Attorney Juni Ganguli was Ineffective by failing to secure me a proper Pleg-agreement with an attached proffer recommendation by the Gov. before or after my sentencing moreover, my Attorney was Ineffective throughout the proceedings of my case furthermore I have attempted through letters through the mail to contact him and via family phone calls to get a status

update on my Rule 35 and have been Ignored to date therefore my Attorney Juni Ganguli has Abandon me Also.

3.) I Adam Simmons Respectfully Ask the HON. COURT hold a Evidentiary hearing to determine whether the Gov. acted in bad faith and why moreover, I respectfully ask the HON. COURT to reverse and remand back to the District COURT to be resentenced with a Rule 35 recommendation on my behalf.

4.) I Adam Simmons say that on or about the end of September or the begining of October 2021 that the Carroll Co. Sheriff's dept. chased me into a section of wood and down a road or trail that led to a duck hunting pond at the north end of Carroll Co. next to and inside the Henery Co. line and while I was running through a swampy section of woods I ran across a skull

and some hair that had a hair bow in it still holding her hair together and a garbage bag with the rest of the remains of a corpse in it that the varmints had dug through the best I could tell because it was almost dark and I didn't have a light so other than she having braces left on her teeth was about all the details I could gather before the smell and sight of made me very sick at my stomach and I had to go + throw up.

So I left that location and began to run again through the woods and I managed to get away from the sheriff dept. that day and I managed to stay out of jail until they caught me on Dec. 2nd 2021 and then after being in jail for a couple of weeks and as I began to sober up I started to have bad dreams and nightmares of the corpse that I had found so I began to talk to my cell mates about whether I should tell the

police about it and they all advised me to do so, so I told the Sheriff's dept about a week before Christmas of 2021. So then the Sheriff's dept. took me back out to the location and I took them and showed them the section of woods I was running through but the duck hunter's had done had that area flooded under water and it was also raining at the time we was out there so we didn't stay and spend any amount of time to search for the corpse, so they told me they was going to come back and bring the dogs back when the weather is not so bad. And so on Jan. 10th I was transported to the Fed. holding facility at the Obion Co. jail in Union City. And when the first conversation between me and my attorney took place he had advised me to cooperate with the Gov. and its agents on my case and so I also mentioned to him about me finding the

corpse and so he (Juni Ganguli) contacted the agents and had a proffer hearing set up on or about March the 15th 2022 where I retold my story about the corpse and some facts about my case and then on the following day I was called out of my housing unit and took to the chief deputy's office where I was put on the phone with the agents from the interview from the day before and the chief pulled up on his computer Google Earth and I tried my best to explain to the agents again and also to put a location pin as close to the location as best I could on the computer the location of the swampy area of woods that I was running through when I ran across the remains of a corpse.

And so after my proffer hearing on or about March 15th 2022 my lawyer told me he would be in touch with me in a week

or so and so it went on another week or so, so when he (Juni Ganguli), my attorney, never did get back in touch with me, me and my family began to call his office, sometimes 3 or 4 times a day, sometimes 3 or 4 times a week, between the months of April through August and also sent a couple of letters by mail. A few times his secretary would even set a date and time for me to call and he would still not be there to answer my call nor would he try to respond back to my family who was also trying to contact him for me not by letter's or anything else so I filed for ineffective counsel on him and went to court on that on or about Aug. 12th 2022 when at that time during the hearing he told me and assured me that he would be more responsible by being in contact and inform me of any and all details and changes of my case and he also promised he would represent me in a more

professional and ethical manner but he failed to do so, so I tried again to file for ineffective counsel on him that was filed on 9-8-22. So he calls me the day before my change of plea hearing that was to take place on 9-13-22 and is promising me that I was going to get a 5K.1 for my information about the corpse I had ran across and while me and him was on the phone he, my attorney, e-mailed the U.S. Attorney, Matthew Wilson, about my case and Matthew asked him to ask me if I knew Adam Bogus (AKA Weedeater) and I informed him that I did and so then he wanted to know what I knew about any timber being cut off of the wildlife refuge and so Matthew Wilson and my attorney Juni Ganguli scheduled me to have another proffer meeting the following day at the court house following my change of plea hearing on 9-13-22. And so after ending his conversation with Matthew, my attorney told

me to go ahead and change my plea to guilty and cooperate with Matthew Wilson tomorrow that he would secure me a proper proffer agreement with a recommendation of a reduced sentence by the Gov. and he, my attorney, has failed to do so far as up to date and I have sent letters and had my family to try to contact him for me since I am in the S.H.U. or Segregated Housing Unit in prison and do not have access to the phone, and so far he has ignored all my and my family's attempts of contact to find out a status update regarding the rule 35 motion and my recommendation from the Gov. that my attorney promised me that he would secure me and to date he has ignored and abandoned me.

And so from the time of my plea change hearing and that proffer hearing on 9-13-22 my attorney kept assuring me that I was going to get a SKI for my

cooperation on my case, the corpse I found, and for my information on Adam Bogus and his crew for cutting timber off of the wildlife refuge that gained a conviction for the Gov. And so that was the last me and my attorney spoke until they done the p.s.i. on me and then he again assured me that everything was still looking good and that I was still getting a 5K1 and that I was only looking at about 6 years max of incarceration and that was what he left me with until he came to go over my p.s.i. report with me and he came back saying that the Gov. was trying to charge me with buying \$40,000 worth of drugs which is nothing but a total lie!! Then he turned around and told me that they was going to use that to career me after he has done promised me that no way was I looking at a career criminal charge. So after the meeting with my attorney I returned to my cell

and began to discuss my case with my cell mate in a conversation about the career criminal thing and he pulled out a piece of paper that showed where his attorney and the p.s.i. people had an e-mail conversation that unless he had been caught in the actual act with the drugs that they could not career him for just phone conversations. So I called my attorney and told him and I told him also that I wanted to retract my plea then since the Gov. was wanting to career me and again he promised me I was going to get a 5K and that everything is OK when I told him I had lost my faith and trust in him and he got mad and hung up the phone on me and would not answer me back calls when I or my family would try to call him back. So that is when I decided to write the Tennessee Board Of Professional Responsibility about him and I also mailed

him (my attorney) a copy of what I sent the B.O.P.R.. And so I didn't hear from my attorney or B.O.P.R. until I seen my attorney at my sentence hearing where he then came and told me that I was not going to get the 5K1 and that him and the U.S. attorney had decided on 84 months witch I did not get. I think he only told me that to keep me from trying to retract my plea and stir up alot of trouble between me and him in front of the judge especially when the judge gave me a 151 months when I was told only 84, so that's when I turned to my attorney and told him I wanted to appeal my sentence but when I did my appeal attorney told me that the plea deal that Juni Ganguli had advised me to sign had signed away all my rights for appeal and so my appeal was denied due to that plea agreement that my first attorney had failed in perserving

me any of my rights for a appeal and that Juni had advised me into signing a plea agreement for Dummies!! That Juni should have preserved me some of my appeal rights and so after my appeal was denied and my appeal attorney was relieved from my case she mailed me all of my court transcripts and documents and upon the B.O.P. receiving my legal mail instead of them having me to come down to the mail room and opening my legal mail in front of me and then copying it off for me, and me signing that I had received it, they just opened my legal mail and copied it off and sent it in as regular mail where the C.O. just gave my legal mail to my cell mate who then took it and read it and showed it to others who in return decided to jump me and attempted to tackle me and beat me over the head and upper body with a combination lock tied to the end of a belt witch resulted in

me having to go to and outside Hospital to the E.R. and I had to have 13 staples put in the back of my head from where they tried to kill me. So after I got back from the hospital I was placed in protective custody and put in the S.H.U. due to my life being in danger now I cant go back to general population all because I came forth on a good faith basis and cooperated with the Gov. for the Gov. to turn around and act in bad faith is gross negligence moreover irresponsible.

5.) In closing this motion I Adam Simmons say that the Gov. did in fact benefit from my information provided in my proffer interviews moreover, I just seek to be treated fairly and provided with a Rule 35 recommendation as promised. Moreover, I would like to inform the HON. COURT that I was not able to

provide any case law in this motion due to me being in protective custody and have very limited resources to the law library here in prison due to being in protective custody which is also the reason I had to write this motion with a rubber pencil. I respectfully thank the HON. COURT for your time and consideration in this matter. Thanks

Date 10-30-23

signature: Adam Simmons
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